

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

K.R., by and through her
parents and next best friend,
M.R. and C.B.,
Plaintiff

v.

Civil No. 05-cv-292-SM

Brookline School District,
Defendant

O R D E R

Kasenia R., through her parents, brings this civil action against the Brookline School District, pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400, et seq. Specifically, plaintiffs appeal an administrative decision issued by the New Hampshire Department of Education denying their request for reimbursement of the costs associated with their unilateral placement of Kasenia in a private school.

The School District moves to dismiss plaintiffs' amended complaint, asserting that it has been prejudiced by plaintiffs' inexcusable delay in filing that pleading (plaintiffs waited more than six months after the court granted them leave to amend before filing the amended complaint). Additionally, the School

District says the amended complaint fails to comply with the court's order granting plaintiffs leave to amend. See Order dated May 15, 2006 (document no. 20) (granting plaintiffs "permission to amend the complaint only as it relates to matters addressed in the January 2006 proceeding but [denying] permission to introduce other new issues not raised at either hearing."). Plaintiffs have not objected.

The School District is correct in claiming that the amended complaint fails to comply with the court's order. Specifically, it references matters that were not within the scope of the original administrative hearing or the rehearing. The School District's motion is, therefore, granted to the extent it moves the court to strike plaintiffs' amended complaint.

The School District also moves to strike plaintiffs' response to its decision memorandum as untimely. While plaintiffs seem to have waited an undue amount of time before filing that response, their delay does not appear to have prejudiced the School District in any way. That motion is, then, denied.

Conclusion

The School District's unopposed motion to dismiss plaintiffs' amended complaint (document no. 57) is granted to the extent it moves the court to strike that pleading. Plaintiffs' amended complaint (document no. 55) shall be stricken. The School District's motion to strike plaintiffs' response to its decision memorandum (document no. 64) is denied.

SO ORDERED.



Steven J. McAuliffe
Chief Judge

August 22, 2007

cc: Theresa Kraft, Esq.
Dean B. Eggert, Esq.